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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/759,575

01/16/2004

Max W. Durney

A-70345-1/RBC/VEJ

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07/26/2004

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,575

Applicant(s)

DURNEY, MAX W.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22,30-32 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,12-22,52 and 53 is/are allowed.
- 6) ☒ Claim(s) 2-11,30-32 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

The request filed on January 16, 2004 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/919,182 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 2-11, 30-32 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to the claims, the preamble, "the combination as defined..." does not correlate with the parent claim, as the parent claim does refer to a combination. Examiner suggests, --*the joinery member with fastener pocket and fastener of claim...*--

Claims 2-11 and 51 would be allowable if rewritten to overcome the 35 U.S.C 112 rejection.

With regard to claims 30-32, it is unclear if the large dimension of the bore is the same as the large diameter of the bore and if the small dimension of the bore is the same as the small diameter of the bore and if not how the large and small dimensions relate to the large and small diameters of the bore. Clarification is required.

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With regard to claim 31, it is unclear how the pocket relates to the joinery member. The claim fails to positively recite the critical interrelationship between the pocket and joinery member. Additionally regarding claim 31, the term, "*said edge to said edge*" is confusing. It is unclear if there is more than one edge being referred to, and if so, from what edge does the bore extend to?

There are no antecedent basis for the following:

"said large diameter" (clm. 30)

"said small diameter (clm. 32)

Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30, 31 and 53 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Durney (4,603,719). With regard to claim 30, Durney discloses a joinery member (23) comprising a member having an end wall with a small dimension (Examiner notes the height dimension in fig. 6) in one plane (Y-axis) and a larger dimension (Examiner notes the longitudinal dimension, fig. 6) in another plane (X-axis); substantially perpendicular to said one plane, a fastener-receiving bore (39) with elongated transverse cross section (figs. 3-6) formed in said member and penetrating said end wall, said bore having a large dimension oriented to

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extend substantially in said one plane (Y-axis) and a small dimension substantially perpendicular to said large diameter and oriented to extend substantially in said another plane (X-axis).

With regard to claim 31, as best as can be understood, Durney discloses a joinery member having a thickness dimension less than a width dimension said bore extends from a pocket proximate said edge and said large dimension of said elongated bore is oriented to extend across said thickness (fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durney (4,603,719). Durney does not disclose a non-cylindrical bore. However it would have been an obvious design modification to construct the bore of any shape so as to allow the screw to be secured within the joinery member, specific selection of a non-cylindrical bore is one of requiring only routine skill in the art.

Allowable Subject Matter

Claims 1, 12-22 and 52 are allowed.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
July 21, 2004



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700